

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

**MEMORANDUM ADOPTING REPORTS AND RECOMMENDATIONS OF THE
UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the reports of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On February 22, 2012, a hearing was held before the Magistrate Judge on Plaintiff's Emergency Application for Temporary Restraining Order and Preliminary Injunction (Dkt. 10). On February 28, 2012, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that Defendant's Rule 12(b)(1) Motion to Dismiss (Dkt. 6) be DENIED, that Plaintiff's Emergency Application for Temporary Restraining Order and Preliminary Injunction (Dkt. 10) be GRANTED in part and that the district court enter a temporary restraining order preventing Defendant from continuing to breach his covenant not to compete (*see* Dkt. 24).

Then, on March 12, 2012, the Magistrate Judge held an evidentiary hearing regarding Plaintiff's request for preliminary injunction and, on March 14, 2012, issued a report containing proposed findings of fact and recommendations that Plaintiff's Emergency Application for Temporary Restraining Order and Preliminary Injunction (Dkt. 10) be GRANTED in part and that the district court enter a preliminary injunction order preventing Defendant from breaching his covenant not to compete (*see* Dkt. 30). The terms of the recommended preliminary injunction slightly modified the Magistrate Judge's original recommendation as to the temporary restraining order.

Defendant timely filed objections to the Magistrate Judge's February 28, 2012 report, and Plaintiff filed its response to those objections (*see* Dkts. 29 and 33). Defendant also timely filed objections to the Magistrate Judge's March 14, 2012 report, and Plaintiff filed its response (*see* Dkts. 35 and 38).

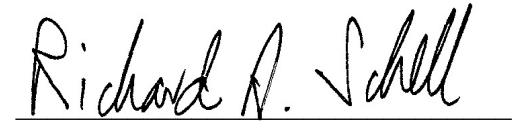
The court has made a *de novo* review of the objections raised by Defendant, as well as Plaintiff's responses, and to the extent Defendant's objections were not otherwise made moot by the Magistrate Judge's second report regarding the preliminary injunction, is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of Defendant are without merit. Therefore, the court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of this court.

Defendant's Rule 12(b)(1) Motion to Dismiss (Dkt. 6) is DENIED, Plaintiff's Emergency Application for Temporary Restraining Order and Preliminary Injunction (Dkt. 10) is GRANTED

in part and the court shall enter a preliminary injunction order preventing Defendant from breaching his covenant not to compete.

IT IS SO ORDERED.

SIGNED this the 28th day of September, 2012.


RICHARD A. SCELL
UNITED STATES DISTRICT JUDGE